

CHAPTER 141**BAHAMAS VACATION PLAN AND
TIME-SHARING****BAHAMAS VACATION PLAN AND TIME-SHARING
REGULATIONS, 2000**

SI 3/2000

(SECTION 53)*[Commencement 17th January, 2000]*

1. These Regulations may be cited as The Bahamas Vacation Plan and Time-Sharing Regulations, 2000. Citation.

**PART I
REGISTRATION**

2. An application for the registration of rights of a time-sharing purchaser shall be made to the Registrar in the Form A set out in the First Schedule and be accompanied with the fee of twenty-five dollars for each owner whose interest is sought to be registered. Application for registration of owner of time-share interest. First Schedule.

3. The fee payable to the Registrar by a member of the public in respect of the inspection of the Register of Time-Sharing Interests shall be five dollars. Fee for inspection of Register.

4. (1) When a developer or marketing agent becomes aware that a time-sharing interest is no longer owned by a previously registered time-sharing purchaser, he shall ascertain from such purchaser or his successor time-sharing owner such information as will satisfy the developer or marketing agent that the new owner is entitled to registration. Registration of successor time-sharing purchaser.

(2) Upon ascertaining that a previously registered time-sharing interest belongs to a new time-sharing owner, the developer or marketing agent shall make application to the Registrar to register the new time-sharing owner.

(3) Where the application mentioned in paragraph (2) is submitted by a person such application shall be signed by the president or a director and the secretary or assistant secretary of the company filing the application.

Amendment of
the registration.

5. If the signatory to the application for registration learns that a material change has occurred in the circumstances affecting the registration after the submission of the application but before the information therein contained is recorded by the Registrar and such change has the effect of falsifying any information contained in the registration, it shall be the duty of such signatory to inform forthwith the Registrar of such particulars of the change of circumstance as will enable the registration to be suitably amended.

PART II LICENSING

Application for
licence.

6. (1) Every application for a licence shall be in writing addressed to the Board and specifying the capacity in which the applicant is seeking to be registered.

Form B.
Second Schedule.

(2) The application shall set out information in separately numbered paragraphs in accordance with the paragraphs of the appropriate Part of Form B in the Second Schedule.

(3) At the end of the application there shall be appended a certificate in the following form —

“I/We certify that to the best of my/our knowledge and belief the above statements are true and correct and that the statements and assertions contained in each exhibit annexed hereto and accompanying this application are true and exact as if set forth *verbatim* herein.”

and such a certificate shall, in the case of an application by a company, be signed by the president or a director and the secretary or assistant secretary of the company.

Amendment of
application.

7. (1) If any material change occurs in the circumstances affecting any application after the submission of the application but before the decision to grant or refuse the application is communicated to the applicant, and such change has the effect of falsifying the information contained in the application, it shall be the duty of the applicant forthwith to inform the Board of such particulars of the change of circumstances as will enable the application to be suitably amended.

(2) If the applicant fails or neglects to inform the Board in accordance with this regulation, the relevant particulars of the application shall be deemed to be false.

8. An application shall be accompanied by an application fee of twenty-five dollars. Application fee

9. A licence when issued shall be in accordance with Form C of the Third Schedule or the appropriate part thereof. Licence Form C Thrd Schedule

10. The fees set out in the second column of the Fourth Schedule shall be payable upon the issue of the licence in respect of the matter referred to respectively in the first column against that fee. Fees Fourth Schedule

PART III OCCUPANCY TAX

11. There shall be paid by each occupant (who is not a purchaser or guest of a purchaser) of any time-share property a tax (“occupancy tax”) of six per cent of his total room rate for the period during which such occupant is provided with sleeping accommodation at such time-share property. Occupancy tax

12. (1) The tax payable under regulation 11 shall be collected by the respective managing agent or, where there is no agent, by the developing owner and paid to the Treasurer by such managing agent or owner on a monthly basis. Collection and payment of tax

(2) Where for the purposes of paragraph (1) there is no managing agent or developing owner the duty imposed, by that paragraph shall be discharged by the principal officer of the tenant’s association or advisory membership body responsible for the maintenance of the respective unit.

(3) Any managing agent or developing owner or principal officer, as the case may be, who fails to discharge the duty imposed by paragraph (1) shall be guilty of an offence punishable on summary conviction by a fine of five thousand dollars or to imprisonment for six months or to both such fine and imprisonment.

**PART IV
EXEMPTIONS**

Exemption in respect of construction, rehabilitation or extension.
Fifth Schedule.
Application.

Form D.
Sixth Schedule.

13. The items specified in the Fifth Schedule shall be eligible for customs duties exemption in respect of the construction, rehabilitation or extension of a time-sharing project.

14. Any person applying for an exemption of customs duties under regulation 13 shall make application in the Form D in the Sixth Schedule.

FIRST SCHEDULE

FORM A (Regulation 2)

**APPLICATION FOR REGISTRATION OF
TIME-SHARING PURCHASER**

TO: THE REGISTRAR OF
BAHAMAS VACATION PLAN AND TIME-SHARE

DATE RECEIVED: 20

Application is hereby made to the Registrar for registration of time-sharing purchaser(s) interest pursuant to section 20 of The Bahamas Vacation Plan and Time-Sharing Act, 1999 and in this regard, submitted herewith is the following:

REGISTRATION NUMBER:

PART I

1. Applicant's full legal name:
2. Applicant's trade name, if any:
3. Applicant's address:
4. Applicant's Licence Number:

The number of this registration is
and the number of the last or immediately preceding registration number is:

PART II

1. Time-Sharing Resort Name:
2. Time-Sharing Resort Location: Island
3. Time-Sharing Resort Address:
4. Resort telephone number:

5. This registration covers the thirty (30) day period or month of (A) 20 to and through 20 (B).
 The entire month (and only the month) 20 6.
 The number of buildings wherein time-sharing units are located is (are) 7.
 The names of each building at the time-sharing project wherein time-sharing units are located and the number of time-sharing units located therein are:

(A) The name of the building:	(B) Number of time-sharing units:
1.
2.
3.
4.

PART III

The name, address and telephone number of each time-sharing purchaser and the time-sharing interest purchased and the time-sharing unit from which the interest is purchased is as follows:

Name, Address Telephone No.	Bldg. Name or Number	Time-Sharing Unit Description	Time-Sharing Interest Description
1.
.....
.....
2.
.....
.....

PART IV

Time-sharing purchaser interest formerly registered with the Registrar, which are now being withdrawn hereby are as follows:

Name, Address Telephone No.	Bldg. Name or Number	Time-Sharing Unit Description	Time-Sharing Interest Description
1.
.....
.....
2.
.....
.....

PART V

Submitted herewith is the sum of \$ which covers registration costs of this filing.

PART VI

The undersigned hereby avers, verifies and states under oath that those purchasers to be registered hereby own the time-sharing interests as described, free and clear of any prior interests of any time-sharing purchaser, has the unqualified right to the ownership of that interest, and that the charge referred to in section 21 of the Act has been validly created on the unit of the time-sharing project and all estates and interests therein in favour of the said time-sharing purchaser to the extent and for the duration of such purchaser’s interest in such unit.

FURTHER, the undersigned avers, verifies and states under oath that a purchaser who is deleted reflects a person whose charge against the estate, once formerly created, is no longer in effect, the said purchaser having no interest whatsoever in the time-sharing interest as formerly registered and which is deleted hereby.

NOTE: Any person who intentionally mis-states the information provided hereby shall be guilty of an offence under the Act and shall be liable on summary conviction to a fine of \$5,000.00 or to imprisonment for a term of one year or to both such fine and imprisonment.

I/We certify that to the best of my/our knowledge, information and belief the above statements are true and correct.

Sworn to this day of , 20.....

.....

Applicant or Authorised Agent

Before me

Notary Public or Justice of the Peace

SECOND SCHEDULE

FORM B (Regulation 6)

**APPLICATION FOR DEVELOPING OWNER’S MARKET-
ING AGENT’S/MANAGING AGENT’S LICENCE UNDER
THE BAHAMAS VACATION PLAN AND TIME-SHARING
ACT, 1999**

PART I

APPLICANT

- (1) Applicant’s full legal name:
- (2) Applicant’s trade name, if any:
- (3) Address of Applicant:
- (4) Telephone Number:
- (5) Applicant is a: Corporation:
..... Sole Proprietorship
Joint Venture Other Explain:
- (6) Attached is a list of the names, addresses, and telephone numbers of each officer, director and owner of Applicant, stating with specificity the percent of ownership each individual holds in Applicant, if other than a sole proprietorship.

PART II

The Applicant described in Part I hereby applies for the following licence(s) at the time-sharing project described in Part III as follows:

- a developing owner’s licence to remain in force throughout the life of the timesharing project, unless sooner suspended or revoked or until
- a marketing agent’s licence to remain in force throughout the life of the timesharing project, unless sooner suspended or revoked, or until
- a managing agent’s licence to remain in force until the expiration of 1 year from its date or until (must be a date less than 1 year).

- (2) A single licence may be issued to the Applicant covering more than one of the three functions aforesaid. If more than 1 licence is simultaneously desired, state what 2 or more licences the Applicant simultaneously desires:
 - (1) and (2)
and (3)
- (3) The name, address and telephone number of the person who is to be responsible for each of the licences applied for hereby is as follows:
 - a. Developing Owner’s Licence
..... Telephone
 - b. Marketing Agent’s Licence
..... Telephone
 - c. Managing Agent’s Licence
..... Telephone
- (4) It is understood the Act requires that there be issued by the Board and outstanding at all times three licences as to each time-sharing project (section 46 of the Act). If this application is for only one of the three licences, the Applicants for or holders of the other two licences are as follows:

NAME	LICENCE DESCRIPTION
1.
2.

PART III

TIME-SHARING PROJECT

- (1) Name of time-sharing project:
- (2) Location of time-sharing project:
- (3) Is the project complete? If so, when was it completed? If not describe the phase of completion of the time-sharing project and when the project is estimated to be completed:
.....
.....
- (4) Total cost or anticipated cost of the time-sharing project:
.....(\$)

- (5) Number of time-sharing units within the time-sharing project:
(.....)
- (6) Is the time-sharing project located in the Family Islands?.....
..... If so, which one
- (7) The maximum number of persons who may at any one time be provided with sleeping accommodations in the time-sharing project is or in any room on the premises is
- (8) Is the project a purpose built time-sharing project?
..... If the answer is no, attach a complete description of the time-sharing project as it formerly existed or as it is being converted to time-sharing use.
- (9) Was this time-sharing project formerly a hotel or motel?
..... If yes, give its former name
- (10) The rooms to be reserved as public rooms for the general use of guest or time-sharing guests are as follows:

PART IV

EXEMPTION REQUEST

(TO BE COMPLETED BY DEVELOPING OWNER)

Applicant hereby requests an exemption be issued to it from the following requirements of the Act:

- the right of a time-sharing purchaser to occupy a time-sharing unit in excess of 6 months to the following period, namely: (Section 5(1) of the Act.)
- that the number of years of the time-sharing interests being sold be extended from 40 years to years. (Section 5(1) of the Act.)
- that the marketing or sale of a time-sharing interest be extended from 45 years to years from the date on which the occupancy permit pertaining to that unit was issued. (Section 41(1)(b) of the Act.)
- that as a part of the conveyance of the time-sharing interest, a legal or equitable estate or tenancy in addition to a time-sharing interest be included, as described on the attached list. (Section 5(2) of the Act.)

..... that Applicant be permitted to sell time-sharing interests in a project that has less than 25 units but at least 10 units inasmuch as the project is located in the Family Island. (Section 12(c) of the Act.)

..... that Applicant be exempt from the following provisions of the Second Schedule to the Act, namely:

..... Applicant seeks an exemption so as to allow mixed use of the time-sharing project along with regular hotel accommodations beyond any conversion period. NOTE: The Board may grant this exemption only where unique physical characteristics of the property or special financial circumstances are involved and it determines the growth of tourism that will be advanced. (Second Schedule to the Act.)

..... Applicant seeks an exemption from the Plan requirement called for by paragraph (m)(i) of the Schedule to the Act so that there will be eliminated the need of establishing a fund to be used solely for the purpose of replacing any furniture, fittings, appliances and floor coverings in the time-sharing project.

..... Applicant seeks an exemption from the submission to the Board of an annual audited statement of accounts as called for by paragraph (m)(ii) of the Schedule to the Act.

..... Applicant seeks an exemption from section 41 of the Act which requires the issuance of a public offering statement for the reason that (a) all sales are off-site or (b) other:

- Other: (1)
- Other: (2)
- Other; (3)

PART V

MISCELLANEOUS

(TO BE COMPLETED BY DEVELOPING OWNER)

- (1) Sales of time-sharing interests will be conducted
on-site both.
The right to cancellation afforded the purchaser under paragraph (f) of the First Schedule to the Act, must appear in the Time-Sharing contract. The developing owner is required to make satisfactory financial arrangements for the referral of all monies received from any purchaser who cancels his contract within twenty days of the receipt of the notification of the cancellation. In this regards, the financial arrangements so made are as follows, to wit:
- (2) Applicant understands the Act encourages, where practical, the respective competent authorities constituted by the Health Services Act, the Town Planning Act and the Fire Services Act, to inspect the time-sharing project (sections 11 and 12) with a report being furnished to the Board of such inspection. For purposes of such inspections, Applicant hereby designates as the person to whom such authorities are to contract so that quick and expeditious inspections might be made. The telephone contact for such person is.....
- (3) Applicant understands and agrees to keep or cause to be kept proper and detailed records concerning all aspects of the development, marketing, and management of the time-sharing projects and shall keep or cause to be kept a copy of the contract for each sale under the time-sharing projects and the disposition of funds realized from such sales, especially funds deposited into and disbursed from the Escrow Fund, Sinking Fund, and Trust Fund. (Paragraph (d) of Second Schedule to the Act).
- (4) Under paragraph (m) of the Second Schedule to the Act the developing owner is to submit a plan for the collection of money from the time-sharing project. A percentage of this money (not less than 10% nor more than 25%) is to be kept aside in a fund to be used solely for the purpose of replacing

furniture, fittings, appliances and floor coverings. Applicant requests of the Board that the percentage payment to the fund be per centum.

EXHIBITS

Annexed hereto and denoted as such are the following exhibits, (delete those not accompanying this application):

- (1) A listing of each director, officer, and owner of the Applicant wherein is stated the exact full legal name and the exact percentage ownership interest in Applicant. (Sections 54(n) and 46(4) of the Act.)
- (2) A certified true copy of the lease or deed which evidences the Applicant's legal right to operate a time-sharing project on the site described in Part II hereof, with a title opinion issued by an approved title insurance company or a counsel and attorney which reflects the status of such of site's title as of a period no older than 180 days from date of this application. (Section 54(1) of the Act.)
- (3) Financial statements on Applicant prepared by an independent certified public accountant as of a period no earlier than one year from date of this application. (Sections 12(a), 54(p) and 9 of the Act.)
- (4) A copy of any agreement between the developing owner and any person whereby that person has agreed to act as a marketing agent for the time-sharing project. (Section 54(l) of the Act.)
- (5) A copy of the contract used by the developer in the sale of a time-sharing interest.
Included in the contract are provisions that satisfy the requirements of paragraphs (i), (j), (k), (l), and (n) of the Second Schedule to the Act unless an exemption with reference to some or all of same is simultaneously submitted herewith.
- (6) A copy of the developing owner's public offering statement. (Third Schedule to the Act.)
- (7) A schedule wherein is listed the bank's name, account name, account number, amount therein (as of a date no later than 30 days from date hereof) and those who are signatories on each of the following accounts: Escrow Account, Sinking Fund Account, and Trust Account. (Sections 31, 32 and 33 of the Act.) Applicant certifies and represents to the Board that as part consideration to the issuance of the licence(s) hereby requested, Applicant will keep or cause to be kept a true and accurate accounting of all entries and withdrawals from each of these accounts, especially as to the times and amounts thereof and with reference to withdrawals, the person or account to whom the withdrawal was issued.

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- (8) A listing of the legal or equitable interest that is sought to be conveyed in addition to the right-to-use that is conveyed, as permitted by the Act if an exemption therefor is requested and the Board approves the same having regard to the fact that the right to occupy is the principal benefit being conferred by the developing owner. (Section 5(2) of the Act.)
 - (9) An exact description of the time-sharing project as it existed before it was converted to time-sharing use, when and how the conversion occurred or is to occur and other aspects of the project sufficient to satisfy the Board of the nature and extent of the time-sharing project as it now exists, as it formerly existed, and as it was originally built.
 - (10) A certified true copy of the public liability insurance policy, with paid premium receipt attached, which indicates the developing owner has obtained coverage in respect of the accommodation and facilities to be used with the amount of such coverage being not less than one-quarter million dollars. (Section 30(1) of the Act.)
 - (11) A certified true copy of the policy of insurance obtained by the developing owner which insures all the property of the time-sharing project against loss or damage, such coverage being in an amount of not less than the fair value of such property. (Section 30(2) of the Act.)
 - (12) A certified true copy of all debt instruments applicable to the time-sharing project wherein is highlighted the inclusion of a non-disturbance clause required by paragraph (a) of the Schedule to the Act, unless an exemption from this requirement has or will be granted, provided a request therefor has been made.
 - (13) A copy of any legally binding document (in addition to the time-sharing purchase contract) being used by any licensee in connection with the time-sharing project, including all rules, regulations, conditions or limitations on and charges for use of the accommodation or facilities as may be in force from time to time.
 - (14) A copy of the instrument(s) which creates and manifests the advisory membership structure or owner's association unless the applicant seeks an exemption from the Board that the purchasers of time-sharing interests not have a voice in the management of the applicable time-sharing project. (Paragraph (b) of the Schedule to the Act.)
 - (15) A copy of the plan as required by paragraph (m) of the Schedule to the Act wherein is outlined the plan whereby time-sharing purchasers make payments so as to pay the costs of operating and maintaining the time-sharing project with no less than 10% and no more the 25% thereof to be used solely

The Type of Licence(s) granted hereby and the effective and expiration date of each are as follows:

LICENCE	EFFECTIVE DATE	EXPIRATION DATE
..... Developing Owner
..... Marketing Agent
..... Managing Agent

NOTE: If no Expiration Date is listed in respect of the Developing Owner or Marketing Agent, the licence will remain in effect throughout the life of the Time-Sharing Project.

The name, address and telephone number of the person who is responsible for each licence hereby granted is as follows:

LICENCE	NAME, ADDRESS AND NUMBERS
1. Developing Owner
2. Marketing Agent
3. Managing Agent

The maximum number of persons who may at any one time be provided with sleeping accommodations in the time-sharing project is (.....) or in any room on the premises (.....).

The rooms reserved as public rooms for the general use of guests or time-sharing purchasers are
Special terms or conditions attached to this Licence are as follows:

.....
.....
.....
.....
.....

Endorsed on the reverse side hereof are exemptions to the Act as granted by the Licensor. The licensee hereof is required to comply with all applicable provisions of The Bahamas Vacation Plan and Time-Sharing Act, 1999 to the extent not otherwise exempted.

LICENCE (Reverse Side)

1. This Licence shall be displayed in a conspicuous place and made available for inspection by any interested party upon reasonable request and at a reasonable time. A duplication charge may be levied if a copy is requested and the request can reasonably be accommodated. 2. The following provisions of The Bahamas Vacation Plan and Time-Sharing Act, 1999 have no application to the time-sharing project or licence listed on the reverse side hereof, the exemptions granted hereby being approved by the Board. The exemption(s) is or are as follows:

.....
.....
.....
.....
.....
.....

Dated this the day of 20

.....
Authorised Signature

FOURTH SCHEDULE (Regulation 12)

FEEs

DEVELOPING OWNER LICENCE FEE

Where project consists of-

- (a) not more than
10 units \$1,000.00
- (b) more than 10 but not
more than 20 units 2,000.00
- (c) more than 20 but not
more than 50 units 3,000.00
- (d) more than 50 units 5,000.00

MARKETING AGENT LICENCE FEE

Where project consists of —

- (a) not more than
10 units \$ 500.00
- (b) more than 10 but not
more than 20 units 1,000.00
- (c) more than 20 but not
more than 50 units 1,500.00
- (d) more than 50 units 2,500.00

MANAGING AGENT’S LICENCE FEE

Where project consists of—

- (a) not more than
 10 units \$ 25.00 per annum
- (b) more than 10 but
 not more than 20 units 50.00 per annum
- (c) more than 20 but not
 more than 50 units 75.00 per annum
- (d) more than 50 units 100.00 per annum

FIFTH SCHEDULE (Regulation 13)

EXEMPTIONS

CONSTRUCTION MATERIALS

1. Aggregate
2. Bar Joists (Steel)
3. Beading (wood, ceramic)
4. Bolts
5. Caulking
6. Cement
7. Clamps (metal)
8. Colour Additive (concrete)
9. Corian
10. Decking (steel, wood)
11. Doors & frames
12. Duro-wall (reinforcement for masonry walls)
13. Felt
14. Fire hose reels & cabinets
15. Fire hoses
16. Fire suppression system (water, chemical)
17. Flashing (copper)
18. Formica
19. Glass
20. Glue (epoxy, carpenter’s)
21. Grout
22. Gutters

23. Hinges
24. Hurricane clips
25. Insulation
26. Joint tape
27. Joist hangers
28. Kitchen cabinets
29. Lag bolts
30. Lally columns
31. Lattice (wood)
32. Lime
33. Locks
34. Lumber
35. Metal lath
36. Molding & trimmings
37. Nails
38. Nuts
39. Particle (fibre) board
40. Paver stones (SPECIALISED ONLY)
41. Plywood
42. Railings (metal, wood, PVC)
43. Rods (threaded)
44. Roof tiles (cement, clay, metal)
45. Roof trusses
46. Screen (insect)
47. Screws
48. Sheetrock
49. Shingles (asphalt, wood)
50. Sills
51. Solder
52. Sonotube (cardboard concrete formwork)
53. Staircase (prefabricated)
54. Staples (construction)
55. Steel (reinforcement, sections, channels, angles)
56. Suspended ceilings
57. Tabs
58. Tennis court material (excluding paints)
59. Tire wire (reinforcement)

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60. Tile cement
 61. Tiles (ceramic, vinyl, acoustic, marble)
 62. Vanities
 63. Visqueen (plastic sheets)
 64. Windows
 65. Wire mesh (steel)

ELECTRICAL MATERIALS

1. Air conditioners
2. Air conditioning ducts (metal flexible)
3. Air diffuser (air conditioning)
4. Cable (electric)
5. Capacitors (electric)
6. Circuit breakers
7. Contractors
8. Control panels (electric)
9. Fan coil (refrigeration)
10. Fans (ceiling, exhaust)
11. Fuse boxes
12. Generators
13. Junction boxes
14. Light fixtures
15. Relays
16. Sensors
17. Switch gear
18. Switches (electric)
19. Transformers
20. Vents (air conditioning)
21. Wire (electric)
22. Pipes

PLUMBING MATERIALS

1. Backflow preventers
2. Bathroom fittings
3. Bathtubs
4. Coupling (PVC, metal)
5. Faucets
6. Gaskets

7. Grease traps (prefabricated)
8. Lavatories
9. Lift stations
10. Pressure gauges
11. Pumps (water)
12. PVC tape
13. Sealants
14. Showers
15. Toilets
16. Urinals
17. Valves
18. Water heaters
19. Water tanks
20. Pipes

SIXTH SCHEDULE

FORM D (Regulation 14)

**APPLICATION FOR EXEMPTION OF
CUSTOMS DUTIES**

To: Permanent Secretary, Ministry responsible for Time-Sharing.

I
(Name of signatory)

of
(Address of Business)

hereby apply for the waiver of customs duties with respect to the under-mentioned goods.

List of Items	Quantity	Costs